



COMMONWEALTH of VIRGINIA

CHESAPEAKE BAY LOCAL ASSISTANCE DEPARTMENT

R. Keith Bull
Executive Director

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Richmond, Virginia 23219

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-NO-243-7229 Voice/TDD

December 16, 1993

Mr. Ted Costin, AICP
Planning Director
P.O. Box 839
Mathews, Virginia 23109

Dear Mr. Costin:

You have requested clarification of § 4.2.7.b of the Chesapeake Bay Preservation Area Designation and Management Regulations as it pertains to lots recorded after October 1, 1989 and prior to the effective date of the local ordinance. Section 4.2.7.b of the Regulations states:

On-site sewage treatment systems not requiring a Virginia Pollution Discharge Elimination System (VPDES) permit shall: for new construction, provide a reserve sewage disposal site with a capacity at least equal to that of the primary sewage disposal site. This reserve sewage disposal site requirement shall not apply to any lot or parcel recorded prior to October 1, 1989, if the lot or parcel is not sufficient in capacity to accommodate a reserve sewage disposal site, as determined by the local health department.

In addition, the Department developed a memorandum with the Department of Health on July 17, 1990 concerning the requirement for reserve drainfield area requirements for lots recorded after October 1, 1989 and the effective date of the local ordinance. That memorandum states:

... Virginia Department of Health permits issued after October 1, 1989 but prior to local program adoption, would undergo a second site evaluation and comply with both the 100% reserve sewage disposal site and Resource Protection Area prohibition (minimum distance of 100 feet from tidal waters or perennial nontidal waters and contiguous wetlands) to the maximum extent possible.

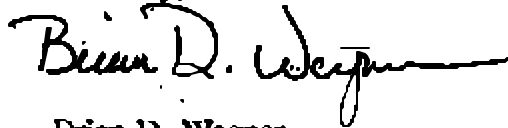
Section 22.10.8 of the Mathews County Zoning Ordinance states:

For new construction, a reserve sewage disposal site with a capacity at least equal to that of the primary sewage disposal site shall be provided and must meet the approval of the Sanitarian assigned to Mathews County. This requirement shall not apply to any lot or parcel recorded prior to October 1, 1989 nor shall it apply to any lot or parcel on which construction has been lawfully commenced and a sewage disposal permit has been issued prior to the effective date of Article 22 of this Ordinance, if such lot or parcel is not sufficient in capacity to accommodate a reserve sewage disposal site, as determined by the Sanitarian.

If an applicant had recorded a lot in good faith between October 1, 1989 and the effective date of the local ordinance, in this case November 15, 1991, and obtained a sewage disposal permit and commenced construction, then a second site evaluation by the local sanitarian would be required to determine if the lot or parcel could accommodate a reserve area and comply to the maximum extent possible. However, if the applicant had not commenced construction and obtained a sewage disposal system, then a variance would be required in accordance with § 22.50 of the County's Zoning Ordinance.

I hope that these comments have been helpful. If you have any questions or need any further assistance please do not hesitate to call.

Sincerely,

A handwritten signature in black ink, appearing to read "Brian D. Wagner", with a stylized flourish at the end.

Brian D. Wagner
Senior Environmental Planner

c: R. Keith Bull, CBLAD Keith
O. White, CBLAD

mathews/reserve.int